

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

KERRI MICHELLE BAILEY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE NO:
)	
UROLOGY CENTER OF)	<u>4-11-cv-42 (CDL)</u>
COLUMBUS, LLC and DR. WILLIAM)	
HARPER, IV,)	
)	
Defendants)	
_____)	

DEFENDANTS' NOTICE OF REMOVAL

Defendants, UROLOGY CENTER OF COLUMBUS, LLC ("Urology Center") and DR. WILLIAM HARPER, IV ("Harper") (collectively "Defendants"), by and through their undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1441, and 1446 file this Notice of Removal with respect to Civil Action File No. SU-11-CV-979 pending in the Superior Court of Muscogee County, Georgia. In support of this Notice of Removal, Defendant Urology Center and Defendant Harper, both consenting to the same, state as follows:

1.

On or about March 18, 2011, Plaintiff Kerri Michelle Bailey ("Plaintiff"), by and through counsel, filed a Summons and Complaint in the Superior Court of

Muscogee County, Georgia, Civil Action File No. SU-11-CV-979 styled Kerri Michelle Bailey v. Urology Center of Columbus, LLC and Dr. William Harper, IV.

True and correct copies of all process, pleadings, and orders on file with the Clerk of the Superior Court of Muscogee County, State of Georgia, specifically including copies of the Summons and Complaint served upon Defendants, are attached hereto as **Exhibit “A”** and incorporated herein. No other process, pleadings, or orders have been filed with the superior court and no motions are currently pending.

2.

Defendants first received notice of Plaintiff’s Complaint when they were served with a copy of the Summons and Complaint on March 22, 2011. Plaintiff’s Complaint was the first paper from which Defendants could ascertain that Plaintiff’s case was removable.

3.

The United States District Court for the Middle District of Georgia, Columbus Division, is the federal judicial district encompassing the Superior Court of Muscogee County, State of Georgia, where this suit was originally filed. Venue, therefore, is proper in this district under 28 U.S.C. § 1441(a).

4.

This Court has original jurisdiction over this civil action under 28 U.S.C. §§ 1331 and 1441(b). This action may be removed to this Court by Defendants on the basis of federal question jurisdiction because Plaintiff claims on the face of her Complaint that Defendants violated the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

5.

This Notice of Removal has been timely filed in accordance with 28 U.S.C. § 1446(b).

6.

Pursuant to 28 U.S.C. § 1446(d), Defendants will be filing written notice of the removal of this action (in the form attached hereto as **Exhibit “B”**), together with a copy of this Notice of Removal and its Notice of Electronic Filing with the Clerk of the Superior Court of Muscogee County, State of Georgia, and serving same on Plaintiff’s counsel.

WHEREFORE, Defendants, having satisfied all the requirements for removal pursuant to 28 U.S.C. §§ 1331 and 1446, request that this action be removed from the Superior Court of Muscogee County, State of Georgia, to the United States District Court for the Middle District of Georgia, Columbus

Division, and further request that this Court assume full jurisdiction of the case herein as provided by law.

This 20th day of April, 2011.

Respectfully submitted,

FOLTZ MARTIN, LLC

/s/ Matthew A. Spivey

Kevin H. Hudson

Georgia Bar No. 374630

Matthew A. Spivey

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